BITS OF FREEDOM

Fact sheet: User rights Digital Services Act

The Digital Services Act (DSA) is a European law that aims to protect users of online platforms against the power and policies of Big Tech. The DSA goes into force on February 17, 2024. From then on, users will be able to exercise their new rights. Of course, they can only do so if they know those rights exist. This fact sheet lists the new rules we think stand to have the greatest positive impact on people.

Insight

New transparency obligations for the platforms give users greater insight into their online environment. This is important for anyone wishing to understand what happens in their online environment and to their data.

- Users are entitled to information about platforms' **recommendation algorithms** (Article 27). Recommendation systems determine what content is recommended to which users and in what order. They determine, for instance, what someone's *feed* looks like. Platforms' terms and conditions must state why a user is shown certain content: what factors are considered and why are those factors important.
- Very large online platforms must keep a **public register with information about the ads they show to users** (Article 39). This includes which groups an ad is/was targeted at.
- Ads on online platforms must be accompanied by **information about that ad** (Article 26). Users must be able to see directly and clearly that something is an advertisement, why it is being shown to a particular user, on whose behalf it is being shown, and who paid for it.

Customize (interface) online environment

To a large extent, a user's online experience is influenced by how platforms are designed and set up. Two important rules address platform design and -functionality.

- Very large online platforms must offer more than one recommendation algorithm to choose from. Anad at least one of those options must **not rely on profiling** (Article 38). (A profiling-based recommendation algorithm is an algorithm that serves users content based on their interests and possibly vulnerabilities.) Users must be able to select and change their preferred option directly and easily (Article 27).
- **Platforms cannot use deceptive patterns**. Users may not be misled, manipulated or disrupted in their ability to make free and informed choices (Article 25).

Information

Often, platforms are difficult to reach and the information they offer on their sites is difficult to find and understand. The DSA looks to change this.

- Online platforms must have a **central point of contact for users** that is easy to find.

Communication with that contact point must be direct, fast, by electronic means and user-friendly. That contact point may not be just a computer (system) (Article 12).

- Platforms' **general terms and conditions** must be clear, understandable, simple, user-friendly and accessible (Article 14). Platforms for children must offer a version of their terms and conditions written in language that is easy to understand for children. Very large online platforms must offer a clear summary of their terms and conditions.

Content moderation

The introduction of new safeguards should give users more power over content moderation on platforms.

- Users must be able to **report content they suspect is illegal** (Article 16). Platforms must offer users accessible, user-friendly and electronic ways to do so. Users who flag content are entitled to an acknowledgment of receipt and information about the platforms' decision.
- When platforms place **restrictions** on users or their content, they must always offer a **motivation** (Article 17). For instance when content is removed, blocked, downranked, or in case of demonetization, (temporary) suspension or termination. The motivation must include: the decision itself, in which countries the measure applies, the duration of the measure, what facts and circumstances were considered, whether automated means were used, what law or policy the content is in violation of, and what a user can do if they disagree with the decision.

Redress/complaints

The DSA introduces several bodies a user can turn to if they were to disagree with a decision made by an online platform.

- Users can take their complaint about a decision to the platform's **internal complaint handling system** (Article 20). Users must be able to submit their complaint electronically and free of charge. The redress system must be easy, accessible and user-friendly, and the handling of the complaint must be timely, non-discriminatory, careful and impartial. The decision about the complaint must be made by qualified persons and thus not solely by automated means such as algorithms. If it turns out a measure was taken unjustly, it must be reversed.
- Users can bring a conflict with an online platform before an **out-of-court dispute resolution body** (Article 21). This body issues non-binding decisions.
- If a platform does not comply with the DSA, users can file a **complaint with the Digital Services Coordinator** in their country (Article 53). In the Netherlands this is the Authority for Consumers and Markets. The coordinator may forward the complaint to another country and/or another competent authority and/or attach an opinion. For the duration of the procedure, users have the right to be heard and to be kept informed about the status of their complaint.
- Users never forsake their right to go to court.

Online advertising

Many platforms' revenue model relies on tracking-based advertising. This can pose a serious threat to human rights. The DSA curtails this form of advertising.

- The decision to show a particular ad to a particular user may not be informed by **sensitive data** available to a platform about the user (Article 26). Sensitive data include: racial or ethnic origin, political opinions, religious or philosophical beliefs, trade union membership, processing of genetic data, biometric data, health data, data relating to a person's sexual behavior or sexual orientation (Article 9 GDPR).
- **Serving tracking-based advertisements to minors is prohibited** (Article 28). For example, should a platform know that a child loves chocolate, the platform may not show ads for chocolate to that child based on that knowledge.